

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
TIME INC., HEARST CORPORATION, ADVANCE :
MAGAZINE PUBLISHERS INC., AMERICAN :
MEDIA, INC., HACHETTE FILIPACCHI MEDIA :
U.S., INC., THE MCGRAW-HILL COMPANIES, :
INC., NEWSWEEK, INC., SOURCE INTERLINK :
MAGAZINES, LLC, REED BUSINESS :
INFORMATION, A DIVISION OF REED :
ELSEVIER INC., VARIETY, INC., REED :
ELSEVIER PROPERTIES INC., BONNIER :
CORPORATION, ZIFF DAVIS PUBLISHING :
HOLDINGS INC., FORBES LLC, REIMAN MEDIA :
GROUP, INC., RD LARGE EDITION, INC., HOME :
SERVICE PUBLICATIONS, INC. and READER'S :
DIGEST LATINOAMERICA SA, :
:

Plaintiffs,

- against -

DARREN ANDREW BUDD, SALVEO LIMITED, :
CYBERNET COMMUNICATIONS, INC., :
SWITCHWORKS TECHNOLOGIES, INC.; :
HAMIDULLA GHUMAL ABBAS, YOAV :
SCHWARTZ, RICK ROSS and JOHN DOES 1-20, :
:

Defendants.

08 Civ. 7392 (WHP)

ECF CASE

----- X
**DECLARATION OF MARK A. SIROTA
IN SUPPORT OF PLAINTIFFS' MOTION
FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

I, MARK A. SIROTA, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Vice President and Associate General Counsel of The Reader's Digest Association, Inc. ("RDA"), the parent corporation of four of the plaintiffs in the within infringement action, Home Service Publications, Inc. ("HSP"), Reiman Media Group, Inc. ("RMG"), Reader's Digest Latinoamerica SA ("RDLA"), and RD Large Edition, Inc. ("RDLE") (RDA and such subsidiaries individually and collectively referred to herein as

the “Company”). I am fully familiar with the facts stated herein and have responsibility for copyright and trademark matters for the Company. I submit this declaration in support of plaintiffs’ motion for a temporary restraining order and preliminary injunction enjoining and restraining defendants Darren Andrew Budd (“Budd”), Salveo Limited (“Salveo”), Cybernet Communications, Inc. (“Cybernet”), Switchworks Technologies, Inc. (“Switchworks”), Hamidulla Ghumal Abbas (“Abbas”), Yoav Schwartz (“Schwartz”), Rick Ross (“Ross”) and John Does 1-20 (collectively, “defendants”) from infringing plaintiffs’ copyrights, trademarks and trade dress.

2. RDA is a Delaware corporation with its principal place of business at Reader’s Digest Road, Pleasantville, New York 10570-7000.

3. The Company owns and publishes many well known magazines, including: *Reader’s Digest Large Print*, *Selecciones*, *The Family Handyman*, *Taste of Home*, *Birds & Blooms* and *Country Woman*. Each magazine is distributed throughout the United States (including in New York).

4. The purpose of this declaration is to set forth factual information and exhibits relevant to this injunction motion.

Mygazines.com Is Infringing Company’s Copyrights and Trademarks

5. I first became aware of the Mygazines.com website on or about July 24, 2008, at which time the website appeared to be fully populated with uniform, high-quality magazines. Without Company’s knowledge, consent or authorization, Mygazines.com was displaying full text reproductions of numerous magazines owned and published by the Company.

6. Specifically, the full text of the following magazines owned and published by the Company are being displayed by defendants on the Mygazines.com website without our consent:

(a) *Taste of Home*, June 2007. RMG obtained Copyright Registration No. TX 6-589-815 for the *Taste of Home*, June 2007 on May 21, 2007. A copy of the copyright registration certificate is annexed hereto as Exhibit A.

(b) *Reader's Digest Large Print*, July 2008. RDLE obtained Copyright Registration No. TX 6-648-100 for the *Reader's Digest Large Print*, July 2008 on August 6, 2008. A copy of the copyright registration certificate is annexed hereto as Exhibit B.

(c) *Reader's Digest Large Print*, August 2008. RDLE obtained Copyright Registration No. TX 6-648-100 for the *Reader's Digest Large Print*, August 2008 on August 6, 2008. A copy of the copyright registration certificate is annexed hereto as Exhibit B.

(d) *The Family Handyman*, June 2008. HSP obtained Copyright Registration No. TX 6-648-081 for *The Family Handyman*, June 2008 on August 6, 2008. A copy of the copyright registration certificate is annexed hereto as Exhibit C.

(e) *The Family Handyman*, July/August 2008. HSP obtained Copyright Registration No. TX 6-648-081 for *The Family Handyman*, July/August 2008 on August 6, 2008. A copy of the copyright registration certificate is annexed hereto as Exhibit C.

(f) *Selecciones*, May 2008. RDLA has applied to the Copyright Office for registration of *Selecciones*, May 2008 on July 29, 2008 and expects the application to be approved by the Copyright Office in due course. A copy of the application for registration is annexed hereto as Exhibit D.

(g) *Taste of Home*, August 2007. RMG has applied to the Copyright Office for registration of *Taste of Home*, August, 2007 on August 20, 2007 and expects the application to be approved by the Copyright Office in due course.

(h) *Taste of Home*, October 2007. RMG has applied to the Copyright Office for registration of *Taste of Home*, October, 2007 on November 15, 2007 and expects the application to be approved by the Copyright Office in due course.

(i) *Taste of Home*, December 2007. RMG has applied to the Copyright Office for registration of *Taste of Home*, December 2007 on December 17, 2007 and expects the application to be approved by the Copyright Office in due course.

(j) *Taste of Home*, April 2008. RMG has applied to the Copyright Office for registration of *Taste of Home*, April 2008 on March 17, 2008 and expects the application to be approved by the Copyright Office in due course.

(k) *Taste of Home*, July 2008. RMG has applied to the Copyright Office for registration of *Taste of Home*, July 2008 on June 5, 2008 and expects the application to be approved by the Copyright Office in due course.

(l) *Taste of Home*, September 2008. RMG has applied to the Copyright Office for registration of *Taste of Home*, September 2008 on July 28, 2008 and expects the application to be approved by the Copyright Office in due course.

(m) *Birds & Blooms*, June 2008. RMG has applied to the Copyright Office for registration of *Birds & Blooms*, June 2008 on May 20, 2008 and expects the application to be approved by the Copyright Office in due course.

(n) *Birds & Blooms*, August 2008. RMG has applied to the Copyright Office for registration of *Birds & Blooms*, August 2008 on July 17, 2008 and expects the application to be approved by the Copyright Office in due course.

(o) *Country Woman*, July 2008. RMG has applied to the Copyright Office for registration of *Country Woman*, July 2008 on May 20, 2008 and expects the application to be approved by the Copyright Office in due course.

7. Company also owns trademark rights in the titles of its magazines. Specifically, Company holds the following trademark registrations for its magazines:

(a) Reader's Digest is US registration number 2929038 in International Class 16 for periodical general interest magazines, condensed fiction books, condensed non-fiction books, adult non-fiction books and children's books;

(b) Reader's Digest (stylized) is US registration number 761376 in International Class 16 for books and volumes containing condensations of books, magazines, musical appreciation booklets issued periodically, textbooks and educational pamphlets and other printed publications;

(c) Reader's Digest (stylized) is US registration number 3030592 in International Classes 9 and 16 for musical sound recordings and pre-recorded video tapes and DVD's featuring documentary and entertainment programming (Class 9) and for periodical

general interest magazines, condensed fiction books, condensed non-fiction books, adult non-fiction books and children's books (Class 16);

(d) Reader's Digest (stylized and design) is US registration number 3030594 in International Classes 9 and 16 for musical sound recordings and pre-recorded video tapes and DVD's featuring documentary and entertainment programming (Class 9) and for periodical general interest magazines, condensed fiction books, condensed non-fiction books, adult non-fiction books and children's books (Class 16);

(e) Reader's Digest (stylized) is US application serial number 77337978 in International Classes 9 and 16 for musical sound recordings and pre-recorded video tapes and DVD's featuring documentary and entertainment programming (Class 9) and periodical general interest magazines, condensed fiction books, condensed non-fiction books, adult non-fiction books on a wide variety of subjects and children's books (Class 16);

(f) Selecciones (stylized) is US registration number 1585645 in International Class 16 printed publications namely; magazines in the Spanish language disseminated periodically;

(g) The Family Handyman (stylized) is US registration number 1830346 in International Class 16 for monthly magazine featuring home maintenance and repair;

(h) The Family Handyman is US registration number 2427051 in International Class 16 for monthly magazine featuring home maintenance and repair;

(i) Taste of Home is US registration number 2002133 in International Class 16 for magazine on cooking;

(j) Country Woman is US registration number 2270614 in International Class 16 for magazine featuring human interest stories;

(k) Birds & Blooms is US registration number 1964726 in International Class 16 for magazine on gardening and birding;

8. Company is the owner of common law trademark rights in its magazine titles as well, based on its use of its marks in commerce over the period of many years, and the wide recognition of those marks by consumers as an indicator of the source of Company's products. Through widespread publication, promotion and distribution of the magazines, many of the Company's trademarks have become famous.

9. In addition, Company has rights to the trade dress of its magazines. Each magazine has a distinctive cover with a stylized logo that functions as a source indicator to consumers, and is non-functional. Mygazines.com displays the covers of *Reader's Digest Large Print*, *Selecciones*, *The Family Handyman*, *Taste of Home*, *Birds & Blooms* and *Country Woman* on the website, infringing Company's trade dress in those covers.

10. Company has not authorized or licensed defendants to post any content from its magazines on the Mygazines.com website.

11. Indeed, Company operates a website or web pages for many of its titles, and offers some of the content available in the print editions of its magazines through those sites. Company earns revenue from its websites by, among other things, offering advertising space to advertisers in conjunction with Company's content. By offering the same content to consumers on its site, for free, Mygazines.com directly competes with Company's websites.

Company Gave Defendants Notice of Their Infringing Activity

12. On August 1, 2008, on behalf of Company, we wrote to defendant Salveo, the registered owner of Mygazines.com, at the address listed on its domain registration and its email address, demanding that it cease and desist from providing Company's works to the public, in any form. Company did not receive any response from Salveo.

13. On August 8, 2008, we wrote to defendant Cybernet at the address listed on its website, and to its email address, demanding that it immediately disable access to the Mygazines.com website or, at a minimum, block access specifically to the magazines published by Company. Company did not receive any response from Cybernet.

14. This application is brought on by way of Order To Show Cause because expedited relief is necessary due to the irreparable harm Company is suffering and will suffer from defendants' continued infringement of Company's copyrights, trademarks and trade dress.

15. Company's magazines are the product of the creative vision and hard work of scores of professionals, which defendants appropriate and distribute for their own ends. Defendants are engaging in the wholesale theft of the content and appearance of Company's magazines. This conduct undermines the Company and the entire magazine industry.

WHEREFORE, for the foregoing reasons, together with those set forth in the accompanying summons and complaint, declarations of other plaintiffs and memorandum of law, your deponent respectfully prays for a temporary restraining order and preliminary injunction enjoining and restraining defendants from distributing or displaying Company's magazines, and from inducing and encouraging its users to upload our content.

Dated: August 18, 2008

A handwritten signature in black ink, appearing to read 'Mark A. Sirota', written over a horizontal line.

Mark A. Sirota

Exhibit A
To
Declaration of Mark A. Sirota

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters
Register of Copyrights, United States of America



Short Form TX

For a Nondramatic Literary Work
UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER

TX 6-589-815



(TX)

1XU

Effective Date of Registration

21 May 2007

Application Received
MAY 21 2007

Deposit Received

One

MAY 21 2007 L

Fee Received

Examined By

slm

Correspondence

TYPE OR PRINT IN BLACK INK. DO NOT WRITE ABOVE THIS LINE.

Title of This Work:

1

Alternative title or title of larger work in which this work was published:

Taste of Home

Name and Address of Author and Owner of the Copyright:

2

Reiman Media Group, Inc.
5400 South 60th St.
Greendale, WI 53129

Nationality or domicile:
Phone, fax, and email:

Phone (414) 423-0180 Fax ()
Email:

Year of Creation:

3

2007

If work has been published,
Date and Nation of Publication:

4

a. Date May 11 2007 (Month, day, and year all required)
Month Day Year
b. Nation U.S.A.

Type of Authorship in This Work:

5

- ☒ Text (includes fiction, nonfiction, poetry, computer programs, etc.)
☐ Illustrations
☐ Photographs
☒ Compilation of terms or data

Check all that this author created.

Signature:

6

Registration cannot be completed without a signature.

I certify that the statements made by me in this application are correct to the best of my knowledge. Check one:

☐ Author ☒ Authorized agent

X *Trudi Bellin*

OPTIONAL
Name and Address of Person to Contact for Rights and Permissions:

7

Phone, fax, and email:

Phone () Fax ()
Email:



Certificate will be mailed in window envelope to this address:

Name
Trudi Bellin c/o Taste of Home
Number/Street/Apt.
5400 South 60th St.
City/State/Zip
Greendale, WI 53129

Deposit account # DA93141

Name
Reiman Media Group, Inc.

DO NOT WRITE HERE

Page 1 of 1 pages

17 USC § 506(e). Any person who knowingly makes a false representation or a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

Exhibit B
To
Declaration of Mark A. Sirota

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Form SE/Group
UNITED STATES COPYRIGHT OFFICE

TX 6-648-100



EFFECTIVE DATE OF REGISTRATION

AUG 06 2008

APPLICATION RECEIVED
AUG 06 2008

ONE DEPOSIT RECEIVED
AUG 06 2008

EXAMINED BY *ST* CORRESPONDENCE ☐

DO NOT WRITE ABOVE THIS LINE.

1

List
in order of
publication

No
previous
registration
under
identical
title
☒

TITLE ▼

Reader's Digest Large Print

ISSN ▼

1094-5857

Volume ▼	Number ▼	Issue date on copies ▼	Month, day, and year of publication ▼
1. 12	11	July 2008	July 1, 2008
2. 12	12	August 2008	July 29, 2008
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.

2

NAME AND ADDRESS OF THE AUTHOR/COPYRIGHT CLAIMANT IN THESE COLLECTIVE WORKS MADE FOR HIRE ▼

RD Large Edition, Inc.
c/o The Reader's Digest Association, Inc., Reader's Digest Road, Pleasantville, NY 10570-7000

FOR NON-U.S. WORKS: Author's citizenship ▼

Domicile ▼

Nation of publication ▼

CERTIFICATION*: I, the undersigned, hereby certify that I am the copyright claimant or the authorized agent of the copyright claimant of the works identified in this application, that all the conditions specified in the instructions on the back of this form are met, that I have deposited two complimentary subscription copies with the Library of Congress, and that the statements made by me in this application are correct to the best of my knowledge.

Handwritten
signature (X)

Beth Clerc

Typed or
printed name

Beth Clerc

PERSON TO CONTACT FOR CORRESPONDENCE ABOUT THIS CLAIM

Name Beth Clerc

Daytime telephone 914-244-5620

Address (if other than given below)

Fax 914-244-7809 914-244-7809

Email beth_clerc@rd.com beth-clerc@rd.com

Certificate
will be
mailed
in window
envelope
to this
address:

Name ▼

Beth Clerc, The Reader's Digest Association, Inc.

Number/Street/Apt ▼

Reader's Digest Road

City/State/Zip ▼

Pleasantville, NY 10570-7000

DEPOSIT ACCOUNT

Account number DA13722

Name of account The Reader's Digest
Association, Inc.

MAIL TO
Library of Congress
Copyright Office
101 Independence Avenue SE
Washington, DC 20559-6000

*17 USC §508(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

Exhibit C
To
Declaration of Mark A. Sirota

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Form SE/Group
UNITED STATES COPYRIGHT OFFICE

TX 6-648-081



EFFECTIVE DATE OF REGISTRATION

AUG 06 2008

APPLICATION RECEIVED

AUG 06 2008

ONE DEPOSIT RECEIVED

AUG 06 2008

EXAMINED BY

CORRESPONDENCE ☐

DO NOT WRITE ABOVE THIS LINE.

1

List
in order of
publication

No
previous
registration
under
identical
title



TITLE ▼

The Family Handyman

ISSN ▼

0014-7230

	Volume ▼	Number ▼	Issue date on copies ▼	Month, day, and year of publication ▼
1.	58	6/489th edition	June 2008	May 20, 2008
2.	58	7/490th edition	July/August 2008	June 17, 2008
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				

2

NAME AND ADDRESS OF THE AUTHOR/COPYRIGHT CLAIMANT IN THESE COLLECTIVE WORKS MADE FOR HIRE ▼

Home Service Publications, Inc.
c/o The Reader's Digest Association, Inc., Reader's Digest Road, Pleasantville, NY 10570

FOR NON-U.S. WORKS: Author's citizenship ▼

Domicile ▼

Nation of publication ▼

CERTIFICATION*: I, the undersigned, hereby certify that I am the copyright claimant or the authorized agent of the copyright claimant of the works identified in this application, that all the conditions specified in the instructions on the back of this form are met, that I have deposited two complimentary subscription copies with the Library of Congress, and that the statements made by me in this application are correct to the best of my knowledge.

Handwritten signature (X) *Beth Clerc*

Typed or printed name Beth Clerc

PERSON TO CONTACT FOR CORRESPONDENCE ABOUT THIS CLAIM

Name Beth Clerc

Daytime telephone 914-244-5620

Address (if other than given below)

Fax 914-244-7809 914-244-7809

Email beth_clerc@rd.com beth_clerc.erd.com

Certificate will be mailed in window envelope to this address:

Name ▼

Beth Clerc, Legal Dept., The Reader's Digest Association, Inc.

Number/Street/Apt ▼

Reader's Digest Road

City/State/Zip ▼

Pleasantville, NY 10570-7000

DEPOSIT ACCOUNT

Account number DA13722

Name of account The Reader's Digest Association, Inc.

LIBRARY OF CONGRESS
Copyright Office
101 Independence Avenue SE
Washington, DC 20540-8000

*17 USC §508(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

Exhibit D
To
Declaration of Mark A. Sirota

Copyright Office fees are subject to change. For current fees, check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-3000.



REGISTRATION NUMBER

EFFECTIVE DATE OF REGISTRATION

APPLICATION RECEIVED

ONE DEPOSIT RECEIVED

EXAMINED BY

CORRESPONDENCE ☐

DO NOT WRITE ABOVE THIS LINE.

1

List
in order of
publicationNo
previous
registration
under
identical
title

TITLE ▼

ISSN ▼

Reader's Digest Selecciones (USA PR)

1535 5748

Volume ▼	Number ▼	Issue date on copies ▼	Month, day, and year of publication ▼
1.	808	April 2008	03/18/2008
2.	810	May 2008	04/15/2008
3.	811	June 2008	05/20/2008
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			

2

NAME AND ADDRESS OF THE AUTHOR/COPYRIGHT CLAIMANT IN THESE COLLECTIVE WORKS MADE FOR HIRE ▼

Reader's Digest Latinoamerica SA, c/o Reader's Digest Association, Inc.
Pleasantville, NY 10570-7000

FOR NON-U.S. WORKS: Author's citizenship ▼

Domicile ▼

Nation of publication ▼

U.S.A.

CERTIFICATION*: I, the undersigned, hereby certify that I am the copyright claimant or the authorized agent of the copyright claimant of the works identified in this application, that all the conditions specified in the instructions on the back of this form are met, that I have deposited two complimentary subscription copies with the Library of Congress, and that the statements made by me in this application are correct to the best of my knowledge.

Handwritten
signature (X)Typed or
printed name

Donna DeMattio

PERSON TO CONTACT FOR CORRESPONDENCE ABOUT THIS CLAIM

Name Donna DeMattio

Daytime telephone (914) 244-7603

Address (if other than given below)

Fax (914) 244-7938

Email donna_demattio@rd.com

Certificate
will be
mailed
in window
envelope
to this
address:

Name ▼

Donna DeMattio, The Reader's Digest Association, Inc.

Number/Street/Apt ▼

Reader's Digest Road

City/State/Zip ▼

Pleasantville, NY 10570-7000

DEPOSIT ACCOUNT

Account number DA13722

Name of account The Reader's Digest
Association, Inc.

MAIL TO:

Library of Congress
Copyright Office
101 Independence Avenue SE
Washington, DC 20559-6000

*17 USC §506(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.



[Home](#) | [Help](#)

[Track & Confirm](#)

Track & Confirm

Search Results

Label/Receipt Number: **7001 0320 0006 1258 9411**

Detailed Results:

- Delivered, July 31, 2008, 7:38 am, WASHINGTON, DC 20559
- Arrival at Unit, July 31, 2008, 5:41 am, WASHINGTON, DC 20022

[< Back](#)

[Return to USPS.com Home >](#)

Track & Confirm

Enter Label/Receipt Number.

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. [Go >](#)

[Site Map](#)

[Contact Us](#)

[Forms](#)

[Gov't Services](#)

[Jobs](#)

[Privacy Policy](#)

[Terms of Use](#)

[National & Premier Accounts](#)

Copyright© 1999-2007 USPS. All Rights Reserved.

No FEAR Act EEO Data

FOIA



USPS.com
1-800-275-3773

